

VI. SALE, EXCHANGE, OR LEASE OF AIRPORT PROPERTY

The Authority may sell, lease, or exchange any portion of or any interest in any real or personal airport property (Property).

A. Sale of Property:

1. Sale of property with a value up to \$2,500 may be at public or private sale as the Authority determines is in its best interests.
2. Sale of property with a value in excess of \$2,500 must be competitive and in accordance with the following:
 - a. The Authority must determine, at a publicly advertised meeting open to the public, that the Property is not necessary for the operation of the airport.
 - b. The Authority must have the Property formally appraised within three months prior to date of the sale by an independent third party. In a case where FAA funds are involved, the Authority may require an appraisal by an MAI appraiser.¹
 - c. The Authority may sell the Property at a public auction if notice has been published twice in a newspaper of general circulation, with at least six days between each publication.
 - d. The Authority may not sell the Property at public auction for less than 90% of its appraised value.
 - e. The Authority has discretion not to sell the Property if the Authority determines the sale is not in the Authority's best interests.
 - f. A county taxpayer who believes the appraised value may be less than the actual value of the Property may file an objection with the Authority at any time prior to the date set for the sale. When an objection is filed, the sale is vacated, and the Authority must apply to the district court to have the Property reappraised under the procedures contained in MCA § 7-8-2215(3). The Authority is not required to further reappraise once the appraisal has been filed with the county clerk and recorder under MCA § 7-8-2215(3)(b).
 - g. A sale must be for cash or on terms that the Authority determines, provided that at least 20% of the purchase price is paid in cash, and the deferred balance carries interest at the prevailing rate at the time of sale but not less than 6% per annum, with installment payments over a period of time not exceeding five years, and secured by a lien on the property.
 - h. If the Authority does not receive at auction a bid of more than 90% of the appraised value, the Authority may sell the Property at private sale for a purchase price of not less than 70% of the appraised value.

¹"MAI" means "Member of Appraisal Institute."

3. The proceeds from any sale of Property shall be credited to such accounts as the Authority may determine are in the best interests of the authority. If FAA funds were involved in the acquisition of the Property, the Authority shall credit the proceeds as required by FAA criteria for Disposal of Property.

B. Exchange of Property:

1. If the Authority determines, at a publicly advertised meeting open to the public, that Property is not necessary for the operation of the airport, the Authority may exchange the Property.

2. In an exchange of Property, both properties must be appraised within three months prior to the exchange, and the exchange may not occur unless the property to be received in exchange for the Authority Property is of at least an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of the title for the property having the lesser value.

3. The Authority may approve an exchange of real Property at a public meeting if notice of the meeting has been published twice in a newspaper of general circulation with at least six days between each publication.

4. Any cash proceeds received in connection with the exchange of Property shall be credited to such accounts as the Authority may determine are in the best interests of the Authority.

5. Personal Property or equipment determined not necessary for the operation of the airport may be exchanged as part of the purchase price of other equipment, or the Property or equipment may be sold as provided above in Part A.

C. Lease of Aeronautical Property:

1. The Authority may lease Property for aeronautical purposes, including but not limited to aircraft hangers, terminal advertising space, airline counters, rental car space; restaurant, lounge, gift shop, fixed base operations and security.

2. The Authority will establish the terms and conditions of any lease and fix charges, rents, and fees for related privileges and services. The charges, rents, and fees must be reasonable and uniform for the same class of privilege or service.

a. The charges, rents, and fees are reasonable if they are similar to the lease of like Property at the airport.

b. A lease is uniform for the same class of privilege or service if it treats similarly situated lessees in a fair and equitable manner.

c. The term of a lease may not exceed 40 years.

3. The proceeds from any lease of Airport Property will be credited to such accounts as the Authority may determine are in the best interests of the Authority.
4. A lease of airport Property must be for no less than market value.
5. A lease may not deprive the public of its rightful, equal, and uniform use of the airport.
6. The lease may be approved only at a publicly advertised meeting open to the public

D. Lease of Non-aeronautical Property

1. The Authority may lease Property for other than aeronautical purposes, including the generation of revenue for airport operations. In leasing its real Property for revenue generation, the Authority shall consider:

- a. the location of the property in relation to the airport runways, the terminal, and other essential aeronautic facilities, and
- b. the future need of the property for essential aeronautical operation.

2. Any lease of real Property for purposes other than aeronautical, including the generation of revenue, is subject to the following procedure:

- a. Prior to approval of a lease of Property under this subsection (D), the Authority must publish a notice of its intent to lease the Property. The notice must include the essential terms of the lease. The notice must be published at least twice in a newspaper of general circulation, with at least six days between dates of publication.
- b. The lease may be approved only at a publicly advertised meeting open to the public.
- c. Any person or entity may offer to lease the Property by submitting a written proposal responsive to the terms contained in the notice of intent to lease.
- d. A deposit in the amount of 5% of the annual market value of the lease must accompany any proposal to lease.
- e. The deposit will be returned to the person or entity if the Authority determines not to lease to the person or entity.
- f. The deposit will be applied to the rental under the lease if a lease is executed with the person or entity.
- g. The deposit will be forfeited to the Authority if the Authority accepts the person's or entity's proposal and the person or entity fails to consummate a lease with reasonable lease terms within 60 days of the Authority's written acceptance.
- h. If there are competing lease proposals, the Authority has the discretion to whom it will award the lease based on what will best advance the public benefit and welfare balancing the following criteria:

- i. the rent proposed to be paid,
 - ii. compatibility with surrounding land uses,
 - iii. compatibility with the long range goals of the airport, and
 - iv. The financial strength of the proposed tenant.
 - i. The Authority has discretion not to lease the Property if the Authority determines the lease does not advance the public benefit and welfare.
3. The Authority will establish the terms and conditions of any lease and fix charges, rents, and fees for related privileges and services. The charges, rents, and fees must be reasonable and uniform for the same class of privilege or service.
- a. The charges, rents, and fees are reasonable if they are similar to the lease of like Property at the airport.
 - b. A lease is uniform for the same class of privilege or service if it treats similarly situated lessees in a fair and equitable manner.
 - c. The term of a lease may not exceed 40 years.
4. The proceeds from any lease of Airport Property will be credited to such accounts as the Authority may determine are in the best interests of the Authority.
5. A lease of airport Property must be for no less than market value. The value must be determined within three months prior to the date the lease is executed. The market value must be determined by an independent third party.
6. A lease may not deprive the public of its rightful, equal, and uniform use of the airport.
7. The lease may be approved only at a publicly advertised meeting open to the public

E. Non-Discrimination. The Authority may not discriminate in any sale, exchange, or lease on the basis of race, color, national origin, religion, sex, marital status, sexual orientation, age, or disability.